

(b) MSHA will consider the application and inspect the drawings and parts to determine whether it will be necessary to make any tests.

(c) If no tests are necessary, the applicant will be advised of the approval or disapproval of the change by letter from MSHA.

(d) If tests are judged necessary, the applicant will be advised of the material that will be required.

[Sched. 8C, Oct. 31, 1935, as amended by Supp. 1, 20 FR 2575, Apr. 19, 1955; 43 FR 12315, Mar. 24, 1978; 52 FR 17514, May 8, 1987; 60 FR 35694, July 11, 1995]

EFFECTIVE DATE NOTE: At 68 FR 36420, June 17, 2003, § 22.11 was amended by revising paragraph (a), effective Aug. 18, 2003. For the convenience of the user, the revised text is set forth as follows:

**§ 22.11 Instructions on handling future changes in design.**

\* \* \* \* \*

(a)(1) The manufacturer must write to the Approval and Certification Center, Rural Route #1, Box 251, Industrial Park Road, Triadelphia, WV 26059, requesting an extension of the original approval and stating the change or changes desired. With this request, the manufacturer should submit a revised drawing or drawings showing changes in detail, together with one of each of the parts affected.

(2) Where the applicant for approval has used an independent laboratory under part 6 of this chapter to perform, in whole or in part, the necessary testing and evaluation for approval of changes to an approved product under this part, the applicant must provide to MSHA as part of the approval application:

(i) Written evidence of the laboratory's independence and current recognition by a laboratory accrediting organization;

(ii) Complete technical explanation of how the product complies with each requirement in the applicable MSHA product approval requirements;

(iii) Identification of components or features of the product that are critical to the safety of the product; and

(iv) All documentation, including drawings and specifications, as submitted to the independent laboratory by the applicant and as required by this part.

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**PART 23—TELEPHONES AND SIGNALING DEVICES**

Sec.

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AUTHORITY: 30 U.S.C. 957, 961.

Sec. 23.2(f) also issued under 30 U.S.C. 811.

SOURCE: Schedule 9B, 4 FR 1555, Apr. 11, 1939, unless otherwise noted.

**§ 23.1 Purpose.**

(a) The purpose of investigations under this part is to promote the development of telephones and signaling devices that may be used safely in mines, especially in coal mines that may have gassy or dust-laden atmospheres. This schedule supersedes Schedule 9A, issued under date of December 5, 1922, and becomes effective October 18, 1938.

(b) Telephones and signaling devices approved under the requirements of this part will be termed "permissible" by MSHA, and if actively marketed will be listed as such in publications relating to permissible equipment, for the information of State mine inspection departments, compensation bureaus, mine operators, miners, and others interested in safety equipment for mines.

**§ 23.2 Definitions.**

(a) *Adequate* means appropriate and sufficient, as determined by mutual agreement of the manufacturer, operators, and MSHA.

(b) *Approval* means official notification by letter, from MSHA to a responsible organization, stating that the device under consideration has been judged to meet the requirements of this part.

### § 23.3

(c) *Normal operation* means the performance by each part of the device of those functions for which the part was designed.

(d) *Permissible* as used in this part means completely assembled and conforming in every respect with the design formally approved by MSHA under this part. (Approvals under this part are given only to equipment for use in gassy and dusty mines.)

(e) *Protected* means effectively covered, enclosed, or otherwise guarded by adequate covers.

(f) *Signaling device*. As used in this part, a signaling device is one that gives visual or audible signals.

(g) *MESA* means the United States Department of the Interior, Mining Enforcement and Safety Administration. Predecessor organization to MSHA, prior to March 9, 1978.

(h) *MSHA* means the U.S. Department of Labor, Mine Safety and Health Administration.

NOTE: Paragraph (f) of this section is issued under the authority of Sec. 101 of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811). All other paragraphs in this section continue under the original authority.

[Sched. 9B, 4 FR 1555, Apr. 11, 1939, as amended by Supp. 1, 20 FR 2975, May 4, 1955; 39 FR 24001, June 28, 1974; 43 FR 12315, Mar. 24, 1978; 47 FR 11370, Mar. 16, 1982]

### § 23.3 Applications.

Before MSHA will undertake the active investigation leading to approval of any telephone or signaling service, the manufacturer shall make application by letter for an investigation leading to approval of his device. This application in duplicate, accompanied by a check, bank draft, or money order, payable to the U.S. Mine and Safety and Health Administration, to cover all the necessary fees, shall be sent to Approval and Certification Center, Box 201B, Industrial Park Road, Dallas Pike, Triadelphia, W. Va. 26059 together with the required drawings, one complete telephone or signaling device, and instructions for its operation.

[Supp. 1, 20 FR 2975, May 4, 1955, as amended at 43 FR 12315, Mar. 24, 1978; 47 FR 14696, Apr. 6, 1982; 60 FR 33723, June 29, 1995]

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EFFECTIVE DATE NOTE: At 68 FR 36421, June 17, 2003, §23.3 was revised, effective Aug. 18, 2003. For the convenience of the user, the revised text is set forth as follows:

### § 23.3 Applications.

(a) Before MSHA will undertake the active investigation leading to approval of any telephone or signaling device, the manufacturer shall make application by letter for an investigation leading to approval of the device. This application, accompanied by a check, bank draft, or money order, payable to the U.S. Mine Safety and Health Administration, to cover all the necessary fees, shall be sent to the Approval and Certification Center, Rural Route #1, Box 251, Industrial Park Road, Triadelphia, WV 26059, together with the required drawings, one complete telephone or signaling device, and instructions for its operation.

(b) Where the applicant for approval has used an independent laboratory under part 6 of this chapter to perform, in whole or in part, the necessary testing and evaluation for approval under this part, the applicant must provide to MSHA as part of the approval application:

(1) Written evidence of the laboratory's independence and current recognition by a laboratory accrediting organization;

(2) Complete technical explanation of how the product complies with each requirement in the applicable MSHA product approval requirements;

(3) Identification of components or features of the product that are critical to the safety of the product; and

(4) All documentation, including drawings and specifications, as submitted to the independent laboratory by the applicant and as required by this part.

(c) An applicant may request testing and evaluation to non-MSHA product safety standards which have been determined by MSHA to be equivalent, under §6.20 of this chapter, to MSHA's product approval requirements under this part.

### § 23.4 [Reserved]

### § 23.5 Conditions governing investigations.

(a) One complete device together with assembly and detail drawings that show its construction and the materials of which the parts are made, shall be submitted preferably at the time the application for test is made. These shall be sent prepaid to Approval and Certification Center, Box 201B Industrial Park Road, Dallas Pike, Triadelphia, W. Va. 26059.

(b) After the device has been inspected by MSHA, the applicant will be